

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



December 9, 2002

Agenda ID #1504

TO: PARTIES OF RECORD IN APPLICATION 99-03-014

This is the draft decision of Administrative Law Judge (ALJ) Mattson. It will not appear on the Commission's agenda for at least 30 days after the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the draft decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the draft decision as provided in Article 19 of the Commission's "Rules of Practice and Procedure." These rules are accessible on the Commission's website at <http://www.cpuc.ca.gov>. Pursuant to Rule 77.3 opening comments shall not exceed 15 pages. Finally, comments must be served separately on the ALJ and the assigned Commissioner, and for that purpose I suggest hand delivery, overnight mail, or other expeditious method of service.

/s/ CAROL BROWN

Carol Brown, Interim Chief
Administrative Law Judge

CAB:sid

Attachment

Decision **DRAFT DECISION OF ALJ MATTSON** (Mailed 12/9/2002)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company
to Revise its Electrical Marginal Costs, Revenue
Allocation and Rates at the End of the Rate
Freeze.

Application 99-03-014
(Filed March 5, 1999)

FINAL ORDER**1. Summary**

This proceeding is the rate design phase of applicant's test year (TY) 1999 general rate case (GRC). Proposed Schedule E-31 will be addressed through disposition of Advice Letter 2276-E. Schedule ED will remain open. All other issues may be addressed in applicant's TY 2003 GRC. This proceeding is closed.

2. Background

On March 5, 1999, Pacific Gas and Electric Company (PG&E or applicant) filed this application. This is Phase 2 of PG&E's TY 1999 GRC.¹ In this phase, applicant proposed comprehensive assessment of marginal costs, revenue allocation, and rate design based on its TY 1999 revenue requirement. Proposed rates would be implemented at the end of the rate freeze. Evidentiary hearings were initially scheduled for December 1999, after the service of parties' proposed testimony.

¹ Phase 1 addressed PG&E's TY 1999 revenue requirement. (See Application (A.) 97-12-020 and Decision (D.) 98-12-078; also see D.00-02-046.)

Several important events occurred, however, which affected the processing of this proceeding. For example, hearings were delayed in order to permit more complete consideration of the Phase 1 GRC revenue requirement decision, as well as address rate design modeling issues. (See, for example, Rulings dated September 9, 1999; January 6, 2000, April 7, 2000; May 4, 2000.)

In September 2000, Assembly Bill 2638 was signed into law, adding Public Utilities Code § 454.1.² This bill permits utilities to offer rate discounts to customers with loads over 20 kilowatts (kW) when those customers receive offers for electric service from an irrigation district at rates less than the electric utility's rates. PG&E responded by proposing Schedule E-31 in supplemental testimony in October 2000.

On November 22, 2000, PG&E filed an emergency application to adopt a rate stabilization plan. (A.00-11-056.) Electricity prices in the wholesale market had risen to unprecedented levels, and applicant asserted it was near insolvency. On December 29, 2000, the processing of the Phase 2 GRC application was suspended so that the limited resources of the Commission, applicant and parties could be devoted to the emergency proceeding.

In January 2001, the Commission adopted a rate surcharge to address the emergency. (D.01-01-018.) In March 2001, the Commission adopted an additional rate surcharge to address the emergency. (D.01-03-082). In April 2001, PG&E filed a petition for relief under Chapter 11 of the Bankruptcy Code. In May 2001, the Commission adopted a comprehensive rate design as part of its ongoing response to the emergency. (D.01-05-064.) Commission action in

² Unless otherwise specified, all statutory references are to the Public Utilities Code.

several other matters also addressed rate design and the emergency. (For example, see Resolution E-3733 (May 3, 2001) to implement the 20/20 rebate program, and D.01-04-006 to implement interruptible programs and curtailment priorities.)

In October 2001, the Commission ordered additional rate adjustments for PG&E, and rehearing of a portion of applicant's TY 1999 electricity revenue requirement. (D.01-10-031.) Also in October 2001, applicant was directed to tender a Notice of Intent to file a GRC in November 2001 for TY 2003. (D.01-10-059.)

Given these events and the suspension of the Phase 2 schedule, parties were asked to file and serve comments on whether, when and how to proceed with the Phase 2 matter. (Ruling dated November 5, 2001.) Parties were directed to identify specific issues that require resolution, explain why they should or must be addressed in this proceeding, and propose a schedule.

3. Responses to Ruling

Applicant recommends dismissing all issues, with the exception of proposed Schedules E-31 and BD. Schedule E-31 seeks to implement § 454.1, and deter uneconomic bypass by PG&E customers who receive competing offers from irrigation districts. In particular, Schedule E-31 would permit PG&E to offer, under certain conditions, rate discounts to retain and attract customers with loads over 20 kW within PG&E's service territory when an irrigation district provides, or is seeking to provide, similar services at lower rates.

Schedule BD (short for Business Development) is an economic development incentive rate. It seeks to encourage large commercial and industrial customers (over 500 kW) to locate new jobs and load in California, or retain and expand existing jobs and load of customers who might otherwise site

facilities outside of PG&E's service area. In particular, it would allow PG&E to offer a three-year declining rate discount from the otherwise applicable non-commodity portion of tariff rates over a five-year term, and would be available throughout PG&E's service area.

Schedules E-31 and BD benefit ratepayers, according to applicant, by increasing contribution to margin and minimizing cost shifts to other customers. Applicant asserts that these proposals are time-sensitive, and their benefits should not be lost by delay.

Responses to the Ruling were also filed and served by the Office of Ratepayer Advocates (ORA), Western Manufacturing Housing Community Association, Merced Irrigation District, Modesto Irrigation District, California Farm Bureau Federation, Federal Executive Agencies, Aglet Consumer Alliance, and The Utility Reform Network. Recommendations include: (a) proceed with all marginal cost, revenue allocation and rate design issues after necessary updates; (b) dismiss most issues and proceed on limited issues after necessary updates; (c) continue the suspension until applicant files its next GRC, then dismiss this application and transfer remaining issues to the new GRC; or (d) dismiss the proceeding.

4. Discussion

After careful consideration of the pleadings and important intervening events, we are convinced that only limited issues in the Phase 2 rate design application should be addressed now, and the matter should be closed. Applicant and others persuade us that the data on marginal cost, revenue allocation, rate design, and all other matters, are sufficiently out-of-date that comprehensive updates would be necessary for a proper treatment of all issues.

This would take time. Even if undertaken, this effort would focus on a revenue requirement that is relatively out-of-date.

Moreover, great attention has already been given to rate design issues in 2001 and 2002, and we are not persuaded that we should revisit those issues now. Rather, we conclude that it would not be a reasonable use of limited time and resources to ask parties to update showings, and complete the Phase 2 matter, when other alternatives are available.

In particular, on November 8, 2002, PG&E filed a TY 2003 GRC application. (A.02-11-017.) PG&E will offer marginal cost, revenue allocation, and rate design proposals reasonably soon, consistent with the Commission's Rate Case Plan. The best use of limited resources is to concentrate the efforts of applicant, parties and the Commission on a comprehensive review in the TY 2003 proceeding.³

We agree with PG&E, however, that Schedules E-31 and BD should be addressed now. We will consider the underlying issues using other procedural vehicles.

³ In applicant's TY 2003 GRC, parties may raise issues that would otherwise have been considered in A.99-03-014. These include, but are not limited to: (a) marginal cost, including use of the approach directed in D.97-03-017 (71 CPUC2d 212, 238, Conclusion of Law 8); (b) revenue allocation; (c) rate design; (d) the agricultural cost study addressed in D.97-03-017 (71 CPUC2d 212, 238, Conclusion of Law 10); (e) applicant's Rule 12 showing (see Ruling in A.99-03-014 dated June 28, 1999); (f) tariff provisions for the elderly (moved from Phase 1 to Phase 2 of A.99-03-014); (g) discounts for master meter customers who submeter; and (h) revisions to PG&E's agricultural tariff eligibility statement (see Ruling dated April 24, 2000 in Case 00-01-001, which moved this issue as to cotton-ginning customers to A.99-03-014, and which we now move to PG&E's TY 2003 GRC). The Scoping Memo and Ruling of the Assigned Commissioner will state the issues that will be included in the TY 2003 proceeding.

For example, on August 26, 2002, PG&E filed Advice Letter 2276-E. This Advice Letter seeks to implement proposed Schedule E-31 in accordance with § 454.1. Because Schedule E-31 is designed to implement § 454.1, consideration of this rate schedule can be handled as an advice letter. Therefore, we need not resolve adoption of Schedule E-31 here.

Similarly, rather than adopt a new Schedule BD as proposed by PG&E, we will accept ORA's recommendation regarding PG&E's existing Schedule ED. That is, PG&E already has an economic development rate contained in Schedule ED. Schedule ED permits a three-year declining rate discount from otherwise applicable non-commodity tariff rates to large customers (over 200 kW) located in state designated Enterprise Zones. The discount is applied prior to application of surcharges adopted in 2001. (D.01-01-018, D.01-03-082.) While not precisely the same, Schedule ED is reasonably similar to proposed Schedule BD. Schedule ED is only available through the end of the rate freeze or until a decision is reached in A.99-03-014, however, whichever comes later. (Resolution E-3654 dated March 2, 2000.) ORA recommends that Schedule BD not be considered now, but that the availability of Schedule ED be continued.

We adopt ORA's proposal to extend the availability of Schedule ED. Schedule ED should remain open until terminated or replaced in PG&E's TY 2003 GRC, or another appropriate proceeding. We do this as explained in Attachment A.

Revised Schedule ED should become effective the date of this order. This is the case because Schedule ED is currently closed to new customers as of the

date of the end of the rate freeze,⁴ or the date a decision is issued in A.99-03-014, whichever is later. Assuming the rate freeze ended before the date of this order,⁵ a break in the availability of Schedule ED would occur if the effective date of revised Schedule ED is not today. Otherwise, Schedule ED would terminate upon the date this order is issued and be reactivated perhaps 45 days later (e.g., five days to file the advice letter, then effective in 40 days pursuant to General Order 96-A, Section IV.B). Therefore, we make the advice letter effective the date of this order subject to Energy Division determining that it is in compliance with this order.

5. Comments on Draft Decision

On December 9, 2002, the draft decision of Administrative Law Judge Mattson was filed and served on parties in accordance with Public Utilities Code Section 311(g)(1) and Rule 77.7 of the Commission's Rules of Practice and Procedure. Comments were filed and served on _____ by _____. Reply comments were filed and served on _____ by _____.

6. Assignment of Proceeding

Loretta M. Lynch is the Assigned Commissioner, and Burton W. Mattson is the assigned Administrative Law Judge in this proceeding.

⁴ The Commission has not yet determined the date that the rate freeze ended. Possible dates include January 18, 2001, February 1, 2001, and March 31, 2002. (See D.02-11-026, mimeo., page 14, footnote 9.)

⁵ The Commission will determine the exact date that the rate freeze ended in another proceeding. (See D.02-01-001, which granted rehearing of D.01-03-082 on the issue of when the rate freeze ended; the rehearing proceeding is in progress.)

Findings of Fact

1. The record developed to date is based on out-of-date and stale information, and does not reflect significant changes in the electric industry.
2. Updating the record now would require a significant expenditure of time and resources.
3. PG&E's application for a TY 2003 GRC was filed on November 8, 2002, and PG&E will soon offer marginal cost, revenue allocation and rate design proposals for TY 2003 based on current information consistent with the Commission's Rate Case Plan.
4. It would be a more efficient use of limited resources to address marginal cost, revenue allocation, and rate design in PG&E's TY 2003 GRC application rather than to require updates in PG&E's TY 1999 proceeding.
5. On August 26, 2002, PG&E filed Advice Letter 2276-E, seeking to implement proposed Schedule E-31 in accordance with § 454.1.
6. PG&E has an economic development rate contained in Schedule ED, the availability of which is now scheduled to expire at the end of the rate freeze or upon a decision in A.99-03-014, whichever comes later.

Conclusions of Law

1. Because Schedule E-31 is designed to implement § 454.1, consideration of this rate schedule can appropriately be handled as an advice letter.
2. PG&E's current Schedule ED should remain open unless and until terminated or replaced in the rate design phase of PG&E's TY 2003 GRC, or another proceeding, and revisions to Schedule ED should be effective the date of this order.
3. Issues that might be addressed in A.99-03-014 may be addressed in the rate design phase of PG&E's TY 2003 GRC.

4. This proceeding should be closed.
5. This order should be effective today so that parties may efficiently and effectively allocate their limited resources knowing the treatment of issues in A.99-03-014.

FINAL ORDER

IT IS ORDERED that:

1. The disposition of Schedule E-31 proposed by Pacific Gas and Electric Company (PG&E) shall be resolved through Advice Letter 2276-E.
2. Within five days of the date of this order, PG&E shall file an Advice Letter with a revised Schedule ED. The Advice Letter with revised Schedule ED shall be in compliance with General Order 96-A. Schedule ED shall be revised as explained in Attachment A. The Advice Letter shall become effective the date of this order subject to Energy Division determining that it is in compliance with this order. The Energy Division Director may require PG&E to amend its Advice Letter and tariff to comply with the orders herein.
3. Issues in this proceeding may be considered in PG&E's test year 2003 general rate case.
4. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A
REVISIONS TO SCHEDULE ED

Schedule ED shall be revised by removing the language in the following two sections, and in any other way directed by the Energy Division Director to comply with the intent of this order to extend the availability of Schedule ED. Revised Schedule ED shall become effective the date of this order.

AVAILABILITY:

Remove: “This schedule is closed to new load as of the date of the end of the rate freeze, or the date a decision is issued in Application 99-03-014, whichever is later. This schedule will expire 52 months after the end of the rate freeze, or 52 months after a decision is issued in Application 99-03-014, whichever is later.”

SPECIAL CONDITION NO. 2:

Remove: “No discount will be paid beyond 52 months after the end of the rate freeze, or 52 months after a decision is issued in Application 99-03-014, whichever is later.”

(END OF ATTACHMENT A)